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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/661,834	06/11/96	KRONZER	J 45751USA6C

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LEWIS, A
EXAMINER

ART UNIT	PAPER NUMBER
3312	

DATE MAILED: 10/02/96

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 6/11/96 (Filing Date)

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 25 → 34 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 25 → 34 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dyrud et al. ('619) in view of Thiebault.

As to claim 25, Dyrud et al. ('619) disclose a fibrous face mask (figs.1-3) for filtering contaminants and/or particulate matter, which comprises: a means (12) for securing the mask to the face of a wearer; and a non-woven fibrous layer (disclosed as a shaping layer) attached to the securing means and containing at least about 40% weight thermally bonding fibers based on the weight of the fibers in the non-woven fibrous layer, at least about 10% weight of the fibers in the non-woven layer being bicomponent fibers, and optionally staple fibers, the non-woven fibrous layer being molded in a cup-shaped configuration. As for the claimed weight ratios of at least 40% weight thermally bonding fibers and at least 10% weight bicomponent fibers in the non-wovwn layer, applicant is referred to Dyrud et al. (col.4, lines 29-37) which discloses weight ratios ranging from 0% staple fibers:100% bicomponent fibers to 75% staple fibers:25% bicomponent fibers, a range which includes the claimed values of 40% thermally bonding fibers and 10% bicomponent fibers.

The difference between Dyrud et al. and claim 25 is a fuzz value of not less than 7.5.

Thiebault teaches a fibrous face mask (fi.1) which has its fluffy layer smoothed by flattening them using a heated metal mass. The process is done in order to make the mask more comfortable to wear.

It would have been obvious to modify the surface of the mask of Dyrud et al. to flatten the fluffy fibers so that it would be more comfortable to wear as taught by Thiebault.

As for the degree of smoothness expressed as the claimed "surface fuzz value", it is submitted that it would have been obvious to smooth the fibers of Dyrud et al. to any desirable degree including one having a surface fuzz value of not less than 7.5.

As to claim 26, Dyrud et al. as discussed above disclose a wide range of weight percent of fibers making up the non-woven layers which include the claimed weight per cent of fibers. Moreover, Dyrud et al. disclose a plurality of non-woven layers having filtration layer of blown microfibers therebetween (fig.2 and col.6, line 63-col.7, line 20).

As to claims 27-31, the particular values of weight per cent of the bicomponent fibers and the particular surface fuzz value in Dyrud et al. as modified by Thiebault can be arrived at through mere routine experimentation and observation with no criticality seen in the particular values being claimed.

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The balance of the claims 32-34 appear to be substantially equivalent in scope to claims 25-31 and are included in Dyrud et al. as modified by Thiebault.

This is a CONTINUATION of applicant's earlier Application No. 08/154,989. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Aaron J. Lewis at telephone number (703) 308-0716.

Aaron J. Lewis
September 30, 1996


AARON J. LEWIS
PRIMARY EXAMINER
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